

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M.B.D. No. 05-10203-JLT

FILED
Clerk's Office
U.S.D.C. - Mass.
Date 5-25-05
By [Signature]

K-SWISS INC., a Delaware Corporation

Plaintiff

v.


PAYLESS SHOESOURCE, INC.

Defendant

CERTIFICATION PURSUANT TO LOCAL RULE 7.1 AND LOCAL RULE 37.1

Pursuant to Local Rules 7.1 and 37.1 of the United States District Court for the District of Massachusetts, Plaintiff's counsel hereby certifies that the parties have attempted in good faith to resolve or narrow the issue in the Plaintiff K-Swiss Inc.'s Expedited Motion to Compel Production Pursuant to Fed.R.Civ.P. 45(c)(2)(B), through the exchange of several telephone calls and emails between lead counsel for Plaintiff and his associate and counsel for Mercury International Trading Corporation ("Mercury"), as set forth in detail in the Declaration of Neil D. Greenstein in Support of Plaintiff K-Swiss Inc.'s Second Expedited Motion to Compel Testimony Pursuant to Fed.R.Civ.P. 45(c)(2)(B) and Exhibit B thereto. After these communications, the parties were unable to resolve the issue raised in Plaintiff's Second Expedited Motion to Compel Testimony. The undersigned attempted to confer with Mercury's counsel via telephone conference on May 25, 2005, in an effort to confirm that the parties were unable to resolve the issue raised in Plaintiff's Second Expedited Motion to Compel Testimony, but that Mercury's counsel was unavailable.

Counsel for the Plaintiff further certifies that she conferred with counsel for Mercury on May 23, 2005, and that he has no objection to Plaintiff's Motion to Admit Neil D. Greenstein *Pro Hac Vice*.


Michele E. Randazzo (BBO# 564906)

252139/KSWISS/0002

CERTIFICATE OF SERVICE
I hereby certify that a true copy of the
above document was served upon the
attorney of record for each other party
by mail hand on 5/25/05
